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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

In re:

JADOOTV, INC.,

Debtor.

Bankruptcy Case No. 19-41283 (WJL)

Chapter 11

**THIRD INTERIM APPLICATION FOR
COMPENSATION AND REIMBURSEMENT
OF EXPENSES FOR KELLER BENVENUTTI
KIM LLP FOR THE PERIOD OF
JANUARY 1, 2020 TO APRIL 30, 2020**

Date: June 3, 2020
Time: 10:30 a.m. (Pacific Daylight Time)
Place: United States Bankruptcy Court
Courtroom 220
1300 Clay Street
Oakland, CA 94612

Keller Benvenuti Kim LLP (“Keller Benvenuti Kim” or the “Firm”), counsel for JadooTV, Inc., debtor and debtor in possession (the “Debtor”) in the above-captioned chapter 11 case (the “Chapter 11 Case”), hereby submits its third interim application (the “Interim Application”) for allowance and payment of compensation for professional services rendered and for reimbursement of actual and necessary expenses incurred for the period commencing January 1, 2020, through April 30, 2020 (the “Interim Fee Period”), pursuant to sections 330 and 331 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the *Guidelines for Compensation and Expense Reimbursement of Professionals and Trustees* (the “Northern District Guidelines”), and the Local Bankruptcy Rules for the Northern District of California.

The Interim Application is based upon the points and authorities cited herein, the Declaration of Jane Kim filed concurrently herewith, the exhibits attached thereto, the pleadings, papers, and records on file in this case, and any evidence or argument that the Court may entertain at the time of the hearing on the Interim Application.

CASE BACKGROUND AND STATUS

A. The Debtor’s Bankruptcy Proceedings

The Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on May 31, 2019 (the “Petition Date”). The Debtor continues to operate its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Chapter 11 Case.

As described in the *Declaration of Sajid Sohail in Support of First Day Motions and Related Relief* [Docket No. 10], the Debtor filed this Chapter 11 Case because of the negative impact that copyright and patent infringement litigation brought by DISH Network LLC and certain related parties (such litigation collectively, the “DISH Litigation,” and such copyright action pending in the United States District Court for the Northern District of California, the “Copyright Action”) had on the Debtor’s sales revenue and legal expenses.

B. The Debtor's Retention of Keller Benvenuti Kim

On June 21, 2019, the Court entered the *Order Authorizing Retention of Keller & Benvenuti LLP as Debtors' Bankruptcy Counsel Nunc Pro Tunc to the Petition Date* [Docket No. 54] (the "Retention Order").¹

The Retention Order authorizes the Debtor to compensate and reimburse the Firm pursuant to the Bankruptcy Code, the Bankruptcy Rules, and the Northern District Guidelines. Subject to the Firm's application to the Court, the Debtor also is authorized by the Retention Order to compensate Keller Benvenuti Kim at the Firm's standard hourly rates for services performed and to reimburse it for actual and necessary expenses incurred. The Retention Order authorizes Keller Benvenuti Kim to provide the following services to the Debtor:

- advising the Debtor of its rights, powers, and duties as debtor and debtor in possession continuing to operate and manage its business and affairs under chapter 11 of the Bankruptcy Code;
- preparing on behalf of the Debtor all necessary and appropriate applications, motions, proposed orders, other pleadings, notices, schedules, and other documents, and reviewing all financial and other reports to be filed in this Chapter 11 Case;
- advising the Debtor concerning, and preparing responses to, applications, motions, other pleadings, notices, and other papers that may be filed by other parties in this Chapter 11 Case;
- advising the Debtor with respect to, and assisting in the negotiation of, any financing agreements, sale agreements, and related transactions that may be necessary in this Chapter 11 Case;
- advising the Debtor regarding its ability to initiate actions to collect and recover property for the benefit of the estate;
- advising and assisting the Debtor in negotiations with the Debtor's stakeholders;
- advising the Debtor in connection with the formulation, negotiation, and promulgation of a plan of reorganization and related transactional documents;

¹ The Firm changed its name to Keller Benvenuti Kim LLP, effective as of March 1, 2020. *See* Dkt. No. 226.

- assisting the Debtor in reviewing, estimating, and resolving claims asserted against the Debtor's estate;
- commencing and conducting in this court litigation that is necessary and appropriate to assert rights held by the Debtor, protect assets of the Debtor's chapter 11 estate, or otherwise further the goal of completing the Debtor's successful reorganization; and
- performing all other necessary and appropriate legal services in connection with this Chapter 11 Case for or on behalf of the Debtor.

C. The First Interim Application

Keller Benvenutti Kim filed its *First Interim Application for Compensation and Reimbursement of Expenses for Keller & Benvenutti LLP for the Period of May 31, 2019 to August 31, 2019* [Dkt. No. 153] (the "First Interim Application"), on September 25, 2019, seeking compensation and reimbursement of expenses for the period from the Petition Date to August 31, 2019 (the "First Interim Fee Period"). The First Interim Application contains a thorough description of the legal services performed by the Firm during the First Interim Fee Period. The Court held a hearing on the First Interim Application on October 16, 2019, and granted the amounts requested in full. *See* Dkt. No. 172, *Order Granting First Interim Application for Compensation and Reimbursement of Expenses for Keller & Benvenutti LLP for the Period of May 31, 2019 to August 31, 2019* (allowing \$134,745.00 in compensation and \$1,192.11 in reimbursement of expenses for First Interim Fee Period). The Firm has been paid all fees and expenses allowed by the order granting the First Interim Application.

D. The Second Interim Application

Keller Benvenutti Kim filed its *Second Interim Application for Compensation and Reimbursement of Expenses for Keller & Benvenutti LLP for the Period of September 1, 2019 to December 31, 2019* [Dkt. No. 153] (the "Second Interim Application"), on January 29, 2020, seeking compensation and reimbursement of expenses for the period from the September 1, 2020 to December 31, 2020 (the "Second Interim Fee Period"). The Second Interim Application contains a thorough description of the legal services performed by the Firm during the Second Interim Fee Period. The Court held a hearing on the Second Interim Application on February 19, 2020, and granted the

1 amounts requested in full. *See* Dkt. No. 236, *Order Granting Second Interim Application for*
2 *Compensation and Reimbursement of Expenses for Keller & Benvenuti LLP for the Period of*
3 *September 1, 2019 to December 31, 2019* (allowing \$76,490.00 in compensation and \$1,246.85 in
4 reimbursement of expenses for Second Interim Fee Period). The Firm has been paid all fees and
5 expenses allowed by the order granting the Second Interim Application.

6 **E. The Interim Fee Period From January 1, 2020 to April 30, 2020**

7 During the Interim Fee Period, the automatic stay with respect to the Copyright Action was
8 lifted effective as of January 14, 2020, and the Debtor has subsequently resumed its defense of the
9 Copyright Action. The Debtor's motion to transfer venue of the Copyright Action to the Northern
10 District of California was granted on March 16, 2020. The Copyright Action has since been assigned to
11 the Honorable Charles R. Breyer, and the initial case management conference is set for September 11,
12 2020. On April 17, 2020, Defendant Sajid Sohail filed a motion for judgment on the pleadings, which
13 is set to be heard on June 26, 2020 before Judge Breyer.

14 Currently, the Debtor and DISH remain at an impasse, with DISH asserting millions of dollars
15 in claims which the Debtor believes should not be allowed. With such a major contingency
16 outstanding, the Debtor believes it is best not to propose a plan until some progress has been made
17 toward liquidating the claims of DISH. As the litigation develops, including discovery, dispositive
18 motion practice, and preparation for trial if necessary, circumstances may arise where the Debtor and
19 DISH may be able to reach a settlement of the Copyright Action, which would include resolution of
20 DISH's claims in this Chapter 11 Case.

21 Other issues that arose during the Interim Fee Period included (i) the Debtor's rejection of the
22 lease for its office in Pleasanton, California, effective as of March 31, 2020; (ii) the Debtor's extension
23 of its exclusive periods for filing and soliciting a plan of reorganization; and (iii) interactions with
24 creditors potentially seeking relief from the automatic stay or seeking to potentially collect prepetition
25 debts in violation of the stay.

26 **F. Professional Compensation and Reimbursement of Expenses Requested**

27 By this Interim Application, the Firm seeks interim allowance of compensation in the amount
28

1 of \$26,635.00 and actual and necessary expenses in the amount of \$772.23, for a total allowance of
2 \$27,407.23 for the Interim Fee Period.

3 All services for which Keller Benvenuti Kim requests compensation were performed for or on
4 behalf of the Debtor. Keller Benvenuti Kim has received no payment and no promises for payment
5 from any source other than the Debtor for services rendered or to be rendered in any capacity
6 whatsoever in connection with the matters covered by this Interim Application.

7 There is no agreement or understanding between Keller Benvenuti Kim and any other person
8 other than the partners of Keller Benvenuti Kim for the sharing of compensation to be received for
9 services rendered in this Chapter 11 Case. As of the Petition Date, the Firm had a remaining credit
10 balance in favor of the Debtor for professional services performed and to be performed, and expenses
11 incurred and to be incurred, in connection with this Chapter 11 Case in the amount of \$8,213.00. The
12 Firm applied that balance towards the fees and expenses approved in the First Interim Application.

13 The Firm has billed the Debtor in this Chapter 11 Case in accordance with its existing billing
14 rates and procedures in effect during the Interim Fee Period. These rates are the same rates Keller
15 Benvenuti Kim charges for services rendered by its attorneys and paraprofessionals in comparable
16 matters, and are reasonable given the compensation charged by comparably skilled practitioners in
17 similar matters in both the California and national markets.

18 **JURISDICTION**

19 This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. sections 157 and 1334.
20 This is a core proceeding pursuant to 28 U.S.C. section 157(b). Venue is proper before this Court
21 pursuant to 28 U.S.C. sections 1408 and 1409.

22 **PROJECT BILLING AND NARRATIVE STATEMENT OF SERVICES RENDERED**

23 During the Interim Fee Period, Keller Benvenuti Kim professionals and paraprofessionals
24 expended 59.1 hours on behalf of the Debtor. The Firm's attorneys billed at hourly rates ranging from
25 \$400 to \$700.² The names and hourly rates of the professionals and paraprofessionals of the Firm who
26 expended time during the Interim Fee Period are as follows:

27 _____
28 ² The Firm increased the hourly rates of certain professionals effective as of February 1, 2020. *See* Dkt. No. 226.

<u>Name</u>	<u>Position</u>	<u>Date Admitted</u>	<u>Hourly Rate</u>
Jane Kim	Partner	2003 ³	\$650-700
Thomas B. Rupp	Associate	2011	\$400-450
Hadley Roberts-Donnelly	Paralegal Trainee	N/A	\$150

In accordance with the Northern District Guidelines and the Local Rules, the Firm has classified services performed into nine specific categories set forth below. Keller Benvenuti Kim has attempted to place the services provided in the category that best relates to such services; because certain services may relate to one or more categories, however, services pertaining to one category may in fact be included in another category.

The following chart summarizes project billing categories and the total hours expended for each category during the Interim Fee Period, and is followed by a narrative and detail.

<u>Category</u>	<u>Total Hours</u>	<u>Fees</u>
A. Omnibus & Miscellaneous Court Appearances	7.9	\$4,335.00
B. General Case Administration	4	\$1,705.00
C. Automatic Stay Proceedings	2	\$1,155.00
D. Schedules and Statement of Financial Affairs and Other Reporting	7.2	\$2,175.00
E. Professional Retention and Compensation – Keller Benvenuti Kim	16.2	\$6,955.00
F. Professional Retention and Compensation – Other Professionals	4.7	\$2,110.00
G. Executory Contract Issues	14.8	\$7,035.00
H. Plan – Advice, Strategy, and Negotiation	1.1	\$525.00
I. DISH Litigation	1.2	\$640.00
TOTAL:	59.1	\$26,635.00

³ Member of the California Bar since 2014.

A. Omnibus & Miscellaneous Court Appearances

During the Interim Fee Period, Keller Benvenuti Kim attorneys represented the Debtor at frequent hearings on various issues in this Chapter 11 Case, including the January 8 status conference and hearing on DISH's motion for relief from stay, the January 29 hearing on the second motion to extend the Debtor's exclusive periods, the February 19 hearing on Keller Benvenuti Kim's Second Interim Application, the March 11 hearing on Chan Punzalan's second interim fee application, and the April 29 status conference and hearing on the Debtor's motion to reject the unexpired lease for its office.

<u>Professional</u>	<u>Hours</u>	<u>Fees</u>
Jane Kim	3.9	\$2,620.00
Thomas Rupp	4	\$1,715.00
Total	7.9	\$4,335.00

B. General Case Administration

This billing code relates to all aspects of the administration of the Debtor's bankruptcy case. The Firm's role as the Debtor's counsel necessitates it taking on administrative workflow necessary to keep this Chapter 11 Case running smoothly. This work involves communications with chambers and other parties relating to various hearings and scheduling issues; attention to notice and service on creditors of the motions filed in this Chapter 11 Case; preparation of status conference statements; and general planning and scheduling of matters in this Chapter 11 Case.

<u>Professional or Paraprofessional</u>	<u>Hours</u>	<u>Fees</u>
Jane Kim	0.7	\$490.00
Thomas Rupp	2.4	\$1,080.00
Hadley Roberts-Donnelly	0.9	\$135.00
Total	4	\$1,705.00

C. Automatic Stay Proceedings

During the Interim Fee Period, Keller Benvenutti Kim assisted with finalizing the order lifting the automatic stay regarding the Copyright Action. The Firm also responded to a prepetition creditor that was threatening collection action.

<u>Professional</u>	<u>Hours</u>	<u>Fees</u>
Jane Kim	1.4	\$915.00
Thomas Rupp	0.6	\$240.00
Total	2.0	\$1,155.00

D. Schedules and Statement of Financial Affairs and Other Reporting

During the Interim Fee Period, Keller Benvenutti Kim assisted with finalizing and filing monthly operating reports for the months of December, January, February, and March, and followed up with the Debtor's management regarding payment of U.S. Trustee Chapter 11 Quarterly fees.

<u>Professional</u>	<u>Hours</u>	<u>Fees</u>
Thomas Rupp	3.8	\$1,665.00
Hadley Roberts-Donnelly	3.4	\$510.00
Total	7.2	\$2,175.00

E. Professional Retention and Compensation – Keller Benvenutti Kim⁴

During the Interim Fee Period, Keller Benvenutti Kim prepared and filed the Second Interim Application and its supporting documents.

⁴ The Firm notes that this category represents a significant proportion of the fees requested in this Interim Application; however, this is due to the substantially lower fees incurred during this Interim Fee Period as compared to each of the First Interim Fee Period and Second Interim Fee Period. The Firm also observes that, were the fees requested in this Interim Application to be allowed in full, the amount of time spent preparing the First Interim Fee Application and Second Interim Fee Application (\$12,975) would be approximately 5% of the total fees allowed for the period of May 31, 2019 to April 30, 2020 (\$237,870), which the Firm respectfully submits is well within the range of appropriateness. The Firm also believes that timely applications for compensation promote a clear and current picture of administrative expenses, and allow for the fees and expenses incurred to be reviewed in the first instance when recollections are fresh.

<u>Professional</u>	<u>Hours</u>	<u>Fees</u>
Jane Kim	1.7	\$1,115.00
Thomas Rupp	14.5	\$5,840.00
Total	16.2	\$6,955.00

F. Professional Retention and Compensation – Other Professionals

During the Interim Fee Period, Keller Benvenuti Kim assisted Chan Punzalan LLP (“Chan Punzalan”), special intellectual property litigation counsel for the Debtor, with preparing and filing its second interim fee application.

<u>Professional</u>	<u>Hours</u>	<u>Fees</u>
Thomas Rupp	4.7	\$2,110.00
Total	4.7	\$2,110.00

G. Executory Contract Issues

The Debtor was the lessee for a single nonresidential real property lease for its office in Pleasanton, California. After two previous extensions of the time to assume or reject the lease, in March 2020, the Debtor decided to reject the lease and operate entirely on a remote working basis. Due to the public health orders in place for the COVID-19 pandemic, the Debtor is unable to remove its personal property from the leased premises. Keller Benvenuti Kim prepared and filed a motion to reject the lease, which was granted at the hearing on April 29, 2020. Before and after filing the motion, the Firm communicated with the lessor to keep it informed regarding the Debtor’s situation.

Keller Benvenuti Kim also communicated with counsel for Chase Auto Finance regarding the lease of the Debtor’s company vehicle. Due to unforeseen difficulties with the automatic payment system of one of the Debtor’s banks, the Debtor learned that payments on the vehicle lease were not being made. The Firm was able to communicate with the Debtor to restart payments and with Chase Auto’s counsel to avoid the filing of, and response to, a relief from stay motion.

<u>Professional</u>	<u>Hours</u>	<u>Fees</u>
Jane Kim	1.9	\$1,330.00
Thomas Rupp	12.9	\$5,705.00
Total	14.8	\$7,035.00

H. Plan – Advice, Strategy, and Negotiation

The second motion to extend the Debtors’ exclusivity periods was prepared and filed during the Second Interim Fee Period. During the Interim Fee Period that is the subject of this Interim Application, the Firm prepared for and attended the hearing on the motion and submitted the proposed order extending the Debtor’s exclusive periods to file a plan and solicit acceptances.

<u>Professional</u>	<u>Hours</u>	<u>Fees</u>
Jane Kim	0.3	\$195.00
Thomas Rupp	0.8	\$330.00
Total	1.1	\$525.00

I. DISH Litigation

The Firm monitored the DISH Litigation and conferred with the client and litigation counsel regarding the DISH Litigation, including with respect to proceedings involving or impacting the Copyright Action in this Chapter 11 Case. The Firm also prepared and filed a notice of dismissal to terminate the adversary proceeding initiated by the Debtor against DISH.

<u>Professional</u>	<u>Hours</u>	<u>Fees</u>
Jane Kim	0.4	\$280.00
Thomas Rupp	0.8	\$360.00
Total	1.2	\$640.00

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EXPENSE SUMMARY
JANUARY 1, 2020 THROUGH APRIL 30, 2020

As is its typical practice in chapter 11 cases, the Firm advanced costs on behalf of the Debtor in connection with the discharge of the duties described in the Interim Application. During the Interim Fee Period, Keller Benvenuti Kim incurred a total of \$772.23 in expenses. These expenses, which include mailing of notices to creditors and service copies of various motions, are reasonable and necessary to the smooth administration of this Chapter 11 Case. Receipts for all significant expenses have been provided to the Debtor.

LEGAL BASIS FOR INTERIM COMPENSATION

The professional services for which Keller Benvenuti Kim requests interim allowance of compensation and reimbursement of expenses were rendered and incurred in connection with this case in the discharge of Keller Benvenuti Kim's professional responsibilities as attorneys for the Debtor in this Chapter 11 Case. Keller Benvenuti Kim's services have been necessary and beneficial to the Debtor and its estate, creditors, and other parties in interest.

In accordance with the factors enumerated in section 330 of the Bankruptcy Code, Keller Benvenuti Kim respectfully submits that the amount requested by Keller Benvenuti Kim is fair and reasonable given the complexity of this Chapter 11 Case, the time expended, the nature and extent of the services rendered, the value of such services, and the costs of comparable services other than in a case under the Bankruptcy Code. Moreover, Keller Benvenuti Kim has reviewed the requirements of the Northern District Guidelines and the UST Guidelines and believes that the Interim Application complies with all of them except as specifically noted herein.

AVAILABLE FUNDS

The Firm understands that the Debtor's estate has sufficient funds available to pay the fees and costs sought herein.

NOTICE

Notice of the Interim Application has been provided to all creditors and parties in interest in this Chapter 11 Case. Keller Benvenuti Kim submits that, in view of the facts and circumstances of this Chapter 11 Case, such notice is sufficient, and no other or further notice need be provided.

CONCLUSION

Keller Benvenuti Kim respectfully requests an interim allowance to the Firm for compensation in the amount of \$26,635.00 and reimbursement of actual and necessary expenses in the amount of \$772.23, and an authorization for payment of a total allowance of \$27,407.23; and for such other and further relief as this Court deems proper.

Dated: May 13, 2020

Respectfully submitted,

KELLER BENVENUTTI KIM LLP

By: /s/ Thomas B. Rupp
Thomas B. Rupp

Attorneys for Debtor and Debtor in Possession